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AMENDMENTS

86 - 300

Draft opinion
Marc Joulaud
(PE595.591v01-00)

Copyright in the Digital Single Market

Proposal for a directive
(COM(2016)0593 – C8-0383/2016 – 2016/0280(COD))

Amendment 86
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Article **114** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article **167** thereof,

Or. fr

Amendment 87
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The Treaty *provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted*. Harmonisation of the laws of the Member States on copyright and related rights *should contribute further to the achievement of those objectives*.

Amendment

(1) The Treaty *stipulates that the Union, while respecting the powers of the Member States, must contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity*. Harmonisation of the laws of the Member States on copyright and related rights *must help to preserve this cultural diversity*.

Or. fr

Amendment 88
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related

Amendment

(2) The *constitutional traditions of the Member States and the European*

rights ***provide*** for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This ***harmonised*** legal framework ***contributes to the good functioning of the internal market; it stimulates*** innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

directives which have been adopted in the area of copyright and related rights ***have the aim of providing*** for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This legal framework ***should make it possible to preserve the cultural heritage and to project the cultural and creative industries, the aim being to stimulate*** innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. fr

Amendment 89

Isabella Adinolfi

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the internal market; ***it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to***

Amendment

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the internal market. ***This legal framework should however be updated, taking also into account new digital technologies, in order to meet the general goal of increasing access to and dissemination of***

the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

creative content, and to contribute to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. en

Amendment 90

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union **copyright framework** remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to **digital and cross-border environments**, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by **national legal systems and taken over by the Union with regard to copyright** remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to **the digital environment**, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to **striking a balance between**

to *achieve a well-functioning marketplace for copyright*, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

respect for rightholders' rights or rights related to copyright, which are responsible for financing cultural creation, and the aim of ensuring wider access to content. In order to *ensure legal certainty for all stakeholders*, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 624 final.

Or. fr

Amendment 91

Giorgos Grammatikakis, Sylvie Guillaume, Mary Honeyball, Luigi Morgano, Monika Smolková, Silvia Costa, Theresa Griffin, Elena Gentile, Monika Smolková

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled 'Towards a modern, more European copyright framework'²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. *This* Directive provides for rules to adapt certain exceptions and

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled 'Towards a modern, more European copyright framework'²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. *In this ever-changing digital environment the Commission should*

limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

investigate all possible measures to prevent the illegal use of copyright protected visual and audiovisual content for commercial purposes, through embedding or framing techniques. In addition, this Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Amendment 92

Helga Trüpel

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses,

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses,

of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. ***This*** Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. ***In this context, with particular regard to the abuse of embedding or framing techniques of audio-visual content on a commercial scale, the Commission should investigate all possible measures to create adequate safeguards against such abuse. In addition,*** this Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Amendment 93

Isabella Adinolfi

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments

Amendment

(3) Rapid technological developments

continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework **remain sound**. *However*, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as **measures to facilitate certain licensing practices as regards** the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules **on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and** on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge, **changing tremendously the market, helping to stimulate competition with established players and fostering creativity**. The objectives and the principles laid down by the Union copyright framework **need to be updated and adapted in order to increase access to and dissemination of creative content**. *Thus*, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as the dissemination of out-of-commerce works, and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning **and fair** marketplace for copyright, there should also be rules on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Amendment 94

Emma McClarkin, Zdzisław Krasnodębski, John Procter, Angel Dzhambazki

Proposal for a directive

Recital 3

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled 'Towards a modern, more European copyright framework'²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited, ***and relevant legislation must be future-proof so as not to restrict technological development.*** New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled 'Towards a modern, more European copyright framework'²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Justification

Due to later references to content recognition tools, it is important to underline that legislation accounts for that fact that such technologies are constantly evolving.

Amendment 95

Sabine Verheyen, Sabine Verheyen, Angelika Niebler, Sabine Verheyen, Herbert Reul, Bogdan Brunon Wenta, Marc Joulaud

Proposal for a directive

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) Despite the fact that more creative content is being consumed today than ever before , on services such as user-uploaded content platforms and content aggregation services, the creative sectors have not seen a comparable increase in revenues from this increase in consumption. This has generated a so-called 'value gap', where platform services retain the value of cultural and creative works, which is diverted from creators. The transfer of value has created an inefficient and unfair market, and threatens the long-term health of the EU's cultural and creative sectors and the success of the Digital Single Market. Thus, liability exemptions can only apply to genuinely neutral and passive online service providers, and not to services that play an active role in distributing, promoting and monetising content at the expense of creators.

Or. en

Amendment 96

Giorgos Grammatikakis, Luigi Morgano, Julie Ward, Silvia Costa

Proposal for a directive

Recital 5

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted. ***The European Commission Communication on 'Promoting a fair, efficient and competitive European copyright-based economy in the Digital Single Market'^{132a} accompanying this Directive notes that the results of the public consultation and the Impact Assessment provided no evidence of cross-border problems or obstacles to the Digital Single Market concerning any other exceptions to copyright and related rights. Only the three exceptions included in the proposal would justify an EU intervention. This is particularly the case for the panorama exception. The European Parliament also did not include such a new exception in its resolution of 9***

July 2015 on the implementation of Directive 2001/29/EC as an issue that would require further harmonisation.

^{32a} COM(2016)0592 final.

Or. en

Amendment 97
Isabella Adinolfi

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) In the fields of research, education **and** preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching **and** preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment **and for** preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC **and 2001/29/EC**

Amendment

(5) In the fields of research, education, preservation of cultural heritage **and public lending of literary works**, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, **2006/115/EC**, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market **and the access of users to creative content**. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching, preservation of cultural heritage **and public lending of literary works**, should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching **and scientific research** in the digital environment, preservation of cultural heritage, **public lending of literary works, freedom of panorama and out-of-**

should be adapted.

commerce works should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC, **2001/29/EC** and **2006/115/EC** should be adapted.

Or. en

Amendment 98

Emma McClarkin, John Procter, Angel Dzhambazki

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply.

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. ***In accordance with the principle of subsidiarity, such exceptions or limitations should complement, rather than replace, existing text and data***

Directives 96/9/EC and 2001/29/EC should be adapted.

mining exceptions in Member States. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Justification

This amendment aims to clarify that, where Member States have existing TDM exceptions that appear to be working well, there should be scope for these to be retained or for them to work alongside an EU-level exception.

Amendment 99 **Andrea Bocskor**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching, **libraries** and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching

digital environment **and** for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

in the digital environment, for preservation of cultural heritage, **for user-generated content and for the reproduction of works permanently situated in public places** should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Justification

The inclusion of libraries as relevant establishments is reasonable because they have an important role in the field of research, education and preservation of cultural heritage.

Amendment 100 **Momchil Nekov**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching, **distance and blended learning** and preservation, **protection and dissemination** of cultural heritage should

limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 101

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, ***the optional nature of*** exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields ***may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment.*** Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. ***Mandatory*** exceptions or limitations for uses of text ***and data*** mining technologies in the field of scientific research,

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are ***already taken into account by certain Member States but are*** not clearly covered by the current Union rules on exceptions and limitations. In addition, ***certain*** exceptions and limitations ***are already*** provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. ***Optional*** exceptions or limitations for uses of text mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the

illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. fr

Amendment 102

Julie Ward, Theresa Griffin, Mary Honeyball

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for *scientific* research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of *scientific* research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive,

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for *academic* research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of *academic* research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive,

the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Justification

Restricting research to only scientific subjects would be a disadvantage for academia and the research findings that are produced. It is appropriate to open exceptions to encompass all academic subjects, and not just the sciences.

Amendment 103

Martina Michels, Kostadinka Kuneva

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain *special* cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders. *Such cases concern, in particular, access to education, knowledge and cultural heritage and, as such, are generally in the public interest. Furthermore, the exceptions concern the standard modern forms of communication between creative users offline and online. Whether with regard to citation or parody, the exchange of cultural material should be permitted and not considered as an infringement of copyright in respect of the overall work.*

Or. en

Amendment 104
Isabella Adinolfi

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied **only** in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the **specific** rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied in certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders. ***The public goal of fostering the creation and dissemination of and access to information, knowledge and creative content within the internal market should also be duly taken into account in the balance of the different interests at stake.***

Or. en

Amendment 105
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. ***They can*** be applied only in certain special cases ***which do not*** conflict with the normal exploitation of the works or other subject-matter ***and do not*** unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and the limitation set out in this Directive ***should*** seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. ***It should be possible for them to*** be applied only in certain special cases ***and not to*** conflict with the normal exploitation of the works or other subject-matter ***or*** unreasonably prejudice the legitimate interests of the rightholders.

Amendment 106
Isabella Adinolfi

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The protection of technological measures established in Directive 2001/29/EC remains *essential* to ensure the protection and the effective exercise of the rights granted to authors and to other rightholders under Union law. This protection should be maintained while ensuring that the use of technological measures does not prevent the enjoyment of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders should have the opportunity to ensure this through voluntary measures. They should remain free to choose the format and the modalities to provide the beneficiaries of the exceptions and the limitation established in this Directive with the means to benefit from them provided that such means are *appropriate*. In the absence of voluntary measures, Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

Amendment

(7) The protection of technological measures established in Directive 2001/29/EC remains *important* to ensure the protection and the effective exercise of the rights granted to authors and to other rightholders under Union law. This protection should be maintained while ensuring that the use of technological measures does not prevent *or hinder in any way* the enjoyment of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders should have the opportunity to ensure this through *effective* voluntary measures. They should remain free to choose the format and the modalities to provide the beneficiaries of the exceptions and the limitation established in this Directive with the means to *effectively* benefit from them provided that such means are *transparent, non-discriminatory and proportionate*. In the absence of *effective* voluntary measures, Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

Amendment 107
Helga Trüpel
on behalf of the Verts/ALE Group
Lucy Anderson

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) In order to ensure that technological measures do not prevent the enjoyment of the exceptions and limitations established in this Directive, in Directive 2001/29/EC, Directive 96/9/EC, Directive 2009/24/EC or Directive 2012/28/EU, Article 6(4) of Directive 2001/29/EC needs to be updated in order to take account of the fact that, in the marketplace, rightholders are often unable to make available to the beneficiary of an exception or limitation the means of benefiting from that exception or limitation, because technological protection measures are generally not applied by the rightholders themselves, but by third party suppliers who provide the content to consumers, such as online marketplaces, some of whom enjoy a dominant market position. The inability of users to make use of their rights under copyright exceptions and limitations not only has a negative impact on users' fundamental rights, but is also detrimental to rightholders who often find themselves in a weaker bargaining position vis-à-vis suppliers of digital content, especially when consumers are locked into the products and services offered by that seller through the use of technological measures. It is therefore insufficient to require Member States only to place obligations upon the rightholders, who are generally unable to remove the technological protection measures applied to their works by third parties. In addition, the act of circumventing technological protection measures for the purposes of enjoying exceptions and limitations to copyright and related rights needs to be exempted from the general legal protection of

effective technological measures enshrined in Article 6(1) and 6(2) of Directive 2001/29/EC. Furthermore, the definition of "technological measures" in Article 6(3) of Directive 2001/29/EC needs to be clarified so as not to include measures which are designed to restrict authorised uses under copyright exceptions and limitations.

Or. en

Amendment 108
Isabella Adinolfi

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can *in particular benefit* the research community and in so doing encourage innovation. However, in the Union, *research organisations such as universities and research institutes* are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow *citizens, start-ups, researchers and journalists* to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can *also benefit citizen science, business, the research community and journalism and* in so doing encourage innovation. However, in the Union, *individuals and legal entities with lawful access to content* are confronted with legal uncertainty as to the extent to which they can perform text and data mining of *that* content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no

authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. en

Amendment 109

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. *Those* technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. *Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content.* In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. *While those* technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends, *their uses require a legal framework and should be limited to non-commercial uses, particularly as regards the analysis of data. Although text mining may prove profitable in the field of research and innovation, it must not disproportionately damage copyright in a context in which profit takes the place of the educational objective.* In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere

be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

facts or data which are not protected by copyright and in such instances no authorisation would be required.

Or. fr

Amendment 110
Zdzisław Krasnodębski

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow **researchers** to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, **research organisations such as universities and research institutes** are confronted with legal uncertainty as to the extent to which they can perform text and data mining **of content**. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, **public and private entities and individuals** are confronted with legal uncertainty as to the extent to which they can perform text and data mining. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by

relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

copyright and in such instances no authorisation would be required.

Or. en

Amendment 111

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Union law already ***provides*** certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text ***and data*** mining. ***However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover,*** where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences ***may exclude text and data*** mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the ***Union's*** competitive position as a research area will suffer unless steps are taken to address the legal uncertainty ***for text and data mining.***

Amendment

(9) ***Some national legal systems and*** Union law already ***provide*** certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text mining. ***In order to preserve the integrity of the copyright principle, these exceptions should remain optional. However,*** where researchers have ***obtained*** lawful access to content, for example through subscriptions to publications or open access licences, ***it should be possible for*** the terms of the licences ***to include text*** mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the competitive position ***of EU Member States*** as a research area will suffer ***from a possible impossibility to undertake text mining*** unless steps are taken to address the legal uncertainty ***surrounding it.***

Or. fr

Amendment 112

Zdzisław Krasnodębski

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where **researchers** have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where **users** have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area **and action lines envisaged in the European Open Science Agenda** will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. en

Amendment 113
Isabella Adinolfi

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where **researchers** have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where **individuals and legal entities** have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and

research *is* increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

data mining. As *both* research *and business are* increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. en

Amendment 114

Julie Ward, Theresa Griffin, Mary Honeyball

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for *scientific* research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in *scientific* research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for *academic* research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in *academic* research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. en

Amendment 115

Zdzisław Krasnodębski

Proposal for a directive

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) Union law does not sufficiently take into consideration that text and data mining is increasingly used beyond formal research organisations and/or for purposes other than scientific research which nevertheless contribute to innovation, technology transfer and the public interest.

Or. en

Amendment 116

Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 10

Text proposed by the Commission

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. ***The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.***

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. ***In order to preserve the capacity of rightholders to develop licences on the market and to receive payment, the exception should apply only to text and data mining conducted for non-commercial purposes.***

Or. fr

Amendment 117

Robert Rochefort

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. ***The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.***

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. ***In order to preserve the capacity of rightholders to develop licences on the market and to receive payment, the exception should apply only to text and data mining conducted for non-commercial purposes.***

Or. fr

Justification

The amendments proposed have the aim of limiting the scope of the exception to use for non-commercial purposes, in order not to call into question rightholders' capacity to develop licences which can cover commercial uses.

Amendment 118

Emma McClarkin, John Procter, Angel Dzhambazki

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies

going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

going beyond the scope of that exception ***and should complement, rather than replace existing text and data mining exceptions in Member States***. Research organisations should also benefit from the exception when they engage into public-private partnerships.

Or. en

Justification

This amendment aims to clarify that, where Member States have existing exceptions that appear to be working well, there should be scope for these to be retained or for them to work alongside an EU-level exception.

Amendment 119

Zdzisław Krasnodebski

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. ***Research organisations should also benefit from the exception when they engage into public-private partnerships.***

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception.

Or. en

Amendment 120

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception.

Research organisations should also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception.

Or. en

Amendment 121

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for ***a mandatory*** exception to the right of reproduction ***and also to the right to prevent extraction from a database.*** The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into

Amendment

(10) This legal uncertainty should be addressed by providing for ***an optional*** exception to the right of reproduction. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

public-private partnerships.

Or. fr

Amendment 122

Isabella Adinolfi

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. **Research organisations** should also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database, **including raw data**. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. **Legal entities** should also benefit from the exception when they engage into public-private partnerships.

Or. en

Amendment 123

Isabella Adinolfi

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) **Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational**

Amendment

deleted

services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 124

Zdzisław Krasnodebski

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public- *deleted*

interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 125

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) *Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because*

deleted

of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 126

Giorgos Grammatikakis, Sylvie Guillaume, Luigi Morgano, Julie Ward, Monika Smolková

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a *decisive* influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit ***non-commercial*** basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. ***Research organisations that carry out text and data mining for commercial purposes should not be considered research organisations for the purposes of this Directive.*** At the same time, organisations upon which commercial undertakings have a ***significant*** influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result

in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive. ***Research organisations that carry out text and data mining as part of a public-private partnership should benefit from the exception provided that they act on a not-for-profit, non-commercial basis. Therefore, content used by research organisations that carry out text and data mining for commercial purposes as part of a public-private partnership should be lawfully acquired by their commercial partner.***

Or. en

Amendment 127

Julie Ward, Theresa Griffin, Mary Honeyball

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct ***scientific*** research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct ***academic*** research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because

of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 128
Silvia Costa

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Institutions for the preservation of the cultural heritage may include a series of institutions which operate, including by means of text and data mining, to preserve and protect the cultural heritage. It is important to make it clear that, for the purposes of this Directive, 'institutions for the preservation of the cultural heritage' include organisations whose primary objective is to protect and promote the cultural heritage and which, by virtue of their remit, carry out research on a non-profit-making basis or reinvesting all the proceeds in their scientific research work, studies, protection and promotion of the cultural heritage, or with a public-interest purpose recognised by a Member State, so that it is not possible for a business which has a decisive influence over such a body to gain preferential access to the results generated by the research.

Or. it

Amendment 129
Zdzisław Krasnodębski

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security **and integrity** of the system or databases where the works or other subject-matter are hosted **would** be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security **and integrity** of the system and should not undermine the effective application of the exception.

Amendment

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security of the system or databases where the works or other subject-matter are hosted **could** be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security of the system and should not undermine the effective application of the exception. ***These measures should not prevent or exclude the ability to develop and use text and data mining tools different from those offered by the rightholder as long as the security of the networks and databases is protected.***

Or. en

Amendment 130

Isabella Adinolfi

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) ***In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders*** should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted **would** be jeopardised. Those measures should not exceed what is necessary to pursue the

Amendment

(12) Rightholders should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted **could** be jeopardised. Those measures should ***be transparent, non-discriminatory, proportionate and*** not exceed what is necessary to pursue the objective of ensuring the security and integrity of the

objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.

system and should not undermine *in any way* the effective application of the exception.

Or. en

Amendment 131
Santiago Fisas Aixelà

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.

deleted

Or. es

Amendment 132
Sabine Verheyen, Christian Ehler, Herbert Reul

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.

deleted

Or. en

Amendment 133
Andrea Bocskor

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) *There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given **that in view of the nature and scope of the exception the harm should be minimal.***

Amendment

(13) ***Rightholders may be compensated for** uses under the text and data mining exception introduced by this Directive given **the mandatory nature of the exception and the consequent investments that will be required by rightholders to make technically possible and facilitate the wide use of text and data mining techniques under the scope of the exception, which cause sufficient harm to justify such compensation.***

Or. en

Justification

It would be better if the decision on the introduction of compensation was left left to the Member States. Such an approach could also consider the differences between the Member States in this area and would leave them the possibility to adjust their system even after the implementation of the Directive, according to future experiences and developments.

Amendment 134
Zdzisław Krasnodebski

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception **the harm should be minimal.**

Amendment

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception **there would be no unreasonable harm to the interests of rightholders. Use under the text and data mining exception would also not conflict with the normal exploitation of the works**

in a way that calls for separate compensation.

Or. en

Amendment 135

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) *There is no need* to provide for compensation for rightholders as regards uses under the text ***and data*** mining exception introduced by this Directive ***given that in view of the nature and scope of the exception the harm should be minimal.***

Amendment

(13) *It is necessary* to provide for compensation for rightholders as regards uses under the text mining exception introduced by this Directive, ***as the principle of compensation is central to the concept of copyright.***

Or. fr

Amendment 136

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC ***allows*** Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of ***a substantial part of its contents*** for the purpose of illustration for teaching. The scope of those exceptions or limitations as

Amendment

(14) ***The national legal systems of some Member States, as well as*** Article 5(3)(a) of Directive 2001/29/EC, ***allow*** Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of ***extracts from works or content from them*** for the purpose of illustration for

they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. ***Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary*** to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online ***and across borders***.

teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. ***Therefore, this optional exception or limitation should be extended to digital*** teaching to ensure that educational establishments benefit from full legal certainty when using ***extracts from*** works or other subject-matter in digital teaching activities, including online.

Or. fr

Amendment 137

Isabella Adinolfi

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the ***sole*** purpose of, ***among others***, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the purpose of illustration for teaching ***or scientific research***. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide

for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception **or limitation** is necessary to ensure **that educational establishments benefit from** full legal certainty when using works or other subject-matter in **digital** teaching activities, including online and across borders.

for a cross-border effect, **nor allow the application of such exceptions or limitations for private study purposes**. This situation may hamper the development of digitally-supported teaching activities and distance learning, **scientific research and private study**. Therefore, the introduction of a new mandatory exception is necessary to ensure full legal certainty when using works or other subject-matter in **all** teaching activities, **scientific research and private study**, including **digitally**, online and across borders.

Or. en

Amendment 138
Momchil Nekov

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-

supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

supported teaching activities and distance learning ***undermining the competitiveness of the educational systems within the Union***. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Or. en

Amendment 139

Yana Toom, Catherine Stihler, Dita Charanzová, Jasenko Selimovic

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. ***The*** scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. ***In addition to the uneven application across Member States,*** the scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a

establishments benefit from full legal certainty when using works or other subject-matter in **digital** teaching activities, including online and across borders.

new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in **all** teaching activities, including online and across borders.

Or. en

Amendment 140

Zdzisław Krasnodębski

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in **digital** teaching activities, including online and across borders.

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in teaching activities, including online and across borders.

Amendment 141**Yana Toom, Catherine Stihler, Dita Charanzová, Jasenko Selimovic****Proposal for a directive****Recital 15***Text proposed by the Commission*

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education, ***as well as organisations such as libraries and other cultural heritage institutions providing non-formal or informal education***, to the extent they pursue their educational activity for a non-commercial purpose. ***In line with the Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training 'ET2020', the contribution of informal and non-formal education, alongside formal education, should be recognised and developed in order to deliver the Union's objectives.*** The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment 142**Helga Trüpel**

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education, ***as well as organisations such as libraries and other cultural heritage institutions providing non-formal or informal education,*** to the extent they pursue their educational activity for a non-commercial purpose. ***In line with the Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training ('ET 2020'), the contribution of informal and non-formal education, alongside formal education, should be recognised and developed in order to deliver the Union's objectives.*** The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 143
Martina Michels

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly

Amendment

(15) While distance learning and cross-border education programmes are mostly

developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments ***recognised by the Member State in which they are established*** in primary, secondary, vocational and higher education ***as well as libraries or other public and non-profit institutions providing non-formal or informal cultural and other education***, to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 144 **Isabella Adinolfi**

Proposal for a directive **Recital 15**

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. ***The exception or limitation*** provided for in this Directive should therefore benefit all educational ***establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity*** for a non-commercial purpose. ***The organisational structure and the means of funding of an educational establishment***

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. ***Such tools are also used in scientific research and private study activities. The exception*** provided for in this Directive should therefore benefit all educational, ***scientific and private study activities*** for a non-commercial purpose.

are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 145

Zdzisław Krasnodębski

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments *in primary, secondary, vocational and higher education* to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments, *research organisations and cultural heritage institutions, recognised as such by the Member State in which they are established*, to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 146

Momchil Nekov

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-

Amendment

(15) While distance

border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

and blended learning, as well as academic continuing education and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 147

Julie Ward, Theresa Griffin

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational, **informal, non-formal** and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-

commercial nature of the activity.

Or. en

Justification

The importance of informal (education outside of a standard school setting) and non-formal education (educational practices which are not included in the formal system of education) should not be overlooked in this exception.

Amendment 148

Isabella Adinolfi

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception *or limitation* should cover **digital** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. *The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures.* The exception *or limitation* should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception should cover **all** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities, **scientific research and private study**. The exception should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching, **scientific research and private study**.

Or. en

Amendment 149

Emma McClarkin, John Procter, Angel Dzhambazki

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. ***The amount of a work that can be copied may vary according to the type of work and its use. Member States should be able therefore to set appropriate limits in their national law to address this variation, as long as these limits strike a fair balance between the needs of users and rightholders.*** The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Justification

This amendment aims to clarify to what extent Member States can apply their own restrictions in respect of illustration for teaching by providing that any such restrictions take in to account the needs of both users and right holders. This relates similarly to Article 4.

Amendment 150

Zdzisław Krasnodębski

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover **digital** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in **the classroom** and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, **research organisations and cultural heritage institutions**, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means **in a learning space, including where it is located outside the premises of the entity, and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.**

Or. en

Amendment 151

Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of *parts or* extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter *or extracts* under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. *Thus, for example, the exception should be limited to the use of brief extracts for intellectual works, except in the case of plays and poems.* The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. fr

Amendment 152

Robert Rochefort

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of ***parts or*** extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter ***or extracts*** under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. ***Thus, for example, the exception should be limited to the use of brief extracts for intellectual works, except in the case of plays and poems.*** The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. fr

Justification

It is necessary to indicate the scope and extent of quotation from the work (the exception may pertain to the whole work or extracts from it), and to ensure that at all events the extent of quotation is limited to what is strictly necessary to meet the needs of the teaching activity.

Amendment 153

Helga Trüpel

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital ***all*** uses of works and other subject-matter, ***digital or otherwise***, such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, ***including organisations such as libraries and other cultural heritage institutions providing non-formal or informal education***, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 154

Yana Toom, Catherine Stihler, Dita Charanzová, Jasenko Selimovic

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover ***digital*** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the

Amendment

(16) The exception or limitation should cover ***all*** uses of works and other subject-matter, ***digital or otherwise***, such as the use of parts or extracts of works to support, enrich or complement the teaching,

related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, ***including organisations such as libraries and other cultural heritage institutions providing non-formal or informal education***, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 155

Martina Michels

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during

examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with *a disability* in the context of illustration for teaching.

examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with *an impairment* in the context of illustration for teaching.

Or. en

Amendment 156

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of *the* works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of *extracts from* works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as

covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. fr

Amendment 157
Isabella Adinolfi

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception *or limitation* in relation to *digital* uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper *the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism*

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception in relation to *all* uses and cross-border teaching activities, *scientific research and private study*, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper *in any way the effective application of the exception or cross-border uses.*

results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Amendment 158
Zdzisław Krasnodebski

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the

availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available **and** that educational establishments are aware of the existence of such licensing schemes.

availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should: **a)** take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available; **b) provide** that educational establishments are aware of the existence of such licensing schemes; **c) create a dedicated technical tool providing information on which protected works or other subject matters are available through licences.**

Or. en

Amendment 159
Andrea Bocskor

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital

uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes. ***In order to ensure the availability and accessibility of such licences for beneficiaries, Member States are encouraged to develop appropriate tools, such as a single portal or database.***

Or. en

Justification

The issue of developing a single portal or database should be carried out on a voluntary basis, since not every Member State has the capacity (or the funding) to develop such tools.

Amendment 160

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 17

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. ***Any other compensation mechanisms should be limited to cases where there is a risk of unreasonable prejudice to the legitimate interests of rightholders.*** This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing

schemes.

Or. en

Amendment 161

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. ***Whereas it is essential to harmonise the scope of the new mandatory*** exception or limitation in relation to digital uses ***and cross-border teaching activities***, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation ***or cross-border uses***. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments,

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. ***While this new optional*** exception or limitation in relation to digital uses ***in an educational context may apply in all Member States***, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete

Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

measures to ensure that licensing schemes allowing digital uses of *extracts from* works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. fr

Amendment 162
Robert Rochefort

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of *adequate* licences, covering at least the same uses as those allowed under the exception. This mechanism

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of licences, covering at least the same uses as those allowed under the exception. This mechanism *should not, on*

would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

the other hand, apply to materials which are primarily intended for the educational market, *for which it should be possible to arrange licences*. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. fr

Justification

Works intended for educational purposes should not be covered by the exception, because their use in class constitutes primary exploitation of the work and is their main source of economic reward.

Amendment 163

Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities,

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities,

the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of *adequate* licences, covering at least the same uses as those allowed under the exception. This mechanism *would, for example, allow giving precedence to licences for* materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of licences, covering at least the same uses as those allowed under the exception. This mechanism *should not, on the other hand, apply to* materials which are primarily intended for the educational market, *for which it should be possible to arrange licences*. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. fr

Amendment 164 **Andrea Bocskor**

Proposal for a directive **Recital 17 a (new)**

Text proposed by the Commission

Amendment

(17 a) In order to guarantee legal certainty when a Member State decides to subject the application of the exception to the availability of adequate licences, it is necessary to specify under which conditions an educational establishment may use protected works or other subject-

matter under the exception and, conversely, when it should act under a licensing scheme.

Or. en

Justification

Providing legal certainty regarding this recital and the proposed amendment is needed, however the last part should not be added because the eligibility to invoke an exception should not be based on the visibility of licenses under conditions that might be contrary to international copyright rules.

Amendment 165

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution *and* consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. *In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.*

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution *or libraries, which sometimes preserve the regional and/or national heritage, and may* consequently *require* the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. *An optional exception may enable Member States to act in a proportionate manner, consistently with national legal traditions, with the aim of preserving the cultural heritage.*

Or. fr

Amendment 166

Martina Michels

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation ***as well as reproductions for other purposes such as insurance and rights clearance and including long-term and cross border loans.***

Or. en

Amendment 167

Yana Toom, Catherine Stihler, Dita Charanzová, Jasenko Selimovic

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also

create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction *in order to allow those acts of preservation*.

create new challenges. *Cultural heritage institutions also engage in making internal reproductions for many varying purposes including insurance, rights clearance, and loans.* In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction.

Or. en

Amendment 168
Zdzisław Krasnodębski

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions, *research organisations and educational establishments* are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Or. en

Amendment 169
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) *Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.*

Amendment

(19) *Article 1(h) of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, to which a number of Member States, and also the Union, are parties, reaffirms 'the sovereign rights of States to maintain, adopt and implement policies and measures that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory'. Accordingly, to comply with legal requirements, it is imperative that this directive should not conflict with obligations under international law to protect and preserve the cultural heritage.*

Or. fr

Amendment 170
Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of **preservation** by cultural heritage institutions hamper cross-border cooperation **and the sharing of means of preservation by** cultural heritage institutions **in the internal market, leading to an inefficient use of resources.**

Amendment

(19) Different approaches in the Member States for acts of **reproduction** by cultural heritage institutions **and educational establishments** hamper cross-border cooperation. **The collections of cultural heritage institutions, if not unique, are likely to be replicated and sit in other institutions, including those in other Member States. It is possible that** cultural heritage institutions **would also wish to create preservation networks across borders, to use resources efficiently.**

Amendment 171
Isabella Adinolfi

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.

Amendment

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources ***and risking negative effects on the preservation of cultural heritage.***

Amendment 172
Zdzisław Krasnodębski

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.

Amendment

(19) Different approaches in the Member States for acts of preservation by cultural heritage institutions, ***research organisations and educational establishments*** hamper cross-border cooperation and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.

Amendment 173

Martina Michels

**Proposal for a directive
Recital 20**

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports ***or for the purpose of digitisation***. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only. ***Such an exception should cover both cultural heritage institutions, including archaeological or other museum institutions of universities and colleges holding the works or other subject-matter, and third party cultural heritage institutions or service providers, which may be requested to perform the act of reproduction on behalf of a cultural heritage institution within the scope of the exception.***

Or. en

**Amendment 174
Zdzisław Krasnodębski**

**Proposal for a directive
Recital 20**

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to

Amendment

(20) Member States should therefore be required to provide for an exception to

permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for *preservation purposes only*.

permit cultural heritage institutions, ***research organisations and educational establishments*** to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. ***These entities should be also allowed to make internal organisational reproductions for varying purposes including insurance, rights clearance, and loans.*** Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for ***such reproduction. The reproduction activities may be carried out in partnership with other institutions and third parties, including those located in other Member States.***

Or. en

Amendment 175

Helga Trüpel

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation ***purposes***, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies ***by the appropriate preservation tool, means or technology, in the required number and*** at any point in the life of a work or other subject-matter to the extent

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions, ***research organisations, and educational establishments*** to reproduce works and other subject-matter permanently in their collections for ***the purpose of carrying out their public interest mission in*** preservation, ***research, education, culture and teaching***, for example to address technological obsolescence or the degradation of original supports ***or for the purpose of digitisation.*** Such an exception

required *in order to produce a copy for preservation purposes only*.

should allow for the making of copies *in any format or medium* at any point in the life of a work or other subject-matter *and* to the extent required *for such reproduction, including via partnerships with other institutions or third parties*.

Or. en

Amendment 176
Andrea Bocskor

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only. *Such an exception should cover both cultural heritage institutions holding the works or other subject-matter and third party cultural heritage institutions or service providers, which may be requested to perform the act of reproduction on behalf of a cultural heritage institution within the scope of the exception.*

Or. en

Justification

Since “digitisation” is not a goal itself but rather a method for reproduction, which may not only be carried out for the purpose of preservation, adding a reference to “digitisation” in the recital might raise some confusion. It is of crucial practical benefit that other third parties requested by cultural institutions may also act based on this exception on behalf of these institutions.

Amendment 177

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation ***purposes***, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies ***by the appropriate preservation tool, means or technology, in the required number and*** at any point in the life of a work or other subject-matter to the extent required ***in order to produce a copy for preservation purposes only***.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions ***and educational establishments*** to reproduce works and other subject-matter permanently in their collections for ***the purpose of carrying out their public interest mission in*** preservation, ***research, education, culture and teaching***, for example to address technological obsolescence or the degradation of original supports ***or for the purpose of digitisation***. Such an exception should allow for the making of copies ***in any format or medium*** at any point in the life of a work or other subject-matter ***and*** to the extent required ***for such reproduction, including via partnerships with other institutions or third parties***.

Or. en

Amendment 178

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should therefore ***be required to provide*** for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore ***have the option of providing*** for an exception to permit cultural heritage institutions ***and libraries*** to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Or. fr

Amendment 179

Isabella Adinolfi

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence ***or*** the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence, the degradation of original supports ***and digitisation***. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment 180
Zdzisław Krasnodębski

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned *or* permanently held by the ***cultural heritage institution***, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution, ***research organisation or educational establishment*** when copies are owned, ***held on a long term loan or*** ***are*** permanently held by the ***entity***, for example as a result of a transfer of ownership or licence agreements.

Amendment 181
Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned *or* permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned, ***held on long-term loan or are*** permanently held by the cultural heritage institution ***or educational establishment***, for example as a result of a transfer of ownership or licence agreements.

Amendment 182

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned or permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution **or library** when copies are owned or permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Or. fr

Amendment 183

Yana Toom, Yana Toom, Dita Charanzová, Jasenko Selimovic

Proposal for a directive

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) Cultural heritage institutions, and educational establishments have long been involved in making reproductions for individual researchers in their collections, at their request and on an ad hoc basis. This serves to support and enrich an individual's scientific research, as a researcher who cannot travel to where a work or related subject matter is held is able to request that a reproduction be made for him/her in compliance with current Union rules on exceptions and limitations. Research, education and learning are increasingly taking place in a cross-border environment. There is, however, a lack of clarity as to whether

the existing exceptions or limitations in Member States provide for a cross-border effect. This situation hampers scientific research and the development of the European Research Area. This legal uncertainty should be addressed, and researchers provided with a clear framework that allows them to request a cultural heritage institution, or educational establishment to make and supply them with a reproduction of a work or other subject matter for the purposes of their research, including in a cross border context.

Or. en

Amendment 184
Isabella Adinolfi

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) In order to allow citizens and consumers to fully benefit from the opportunities offered by new technologies, public lending of literary works, including e-lending, should be permitted within the internal market. The concept of lending, within the meaning of Articles 1(1), 2(1)(b) and 6(1) of Directive 2006/115/EC, covers the lending not only of physical books, but also of a digital copy thereof. When Member States apply the current derogation set out in Article 6 of Directive 2006/115/EC, libraries should be able to buy any physical book on the market. Once purchased, they may lend it without restrictions linked to contractual terms or other measures of protection which prevent the exercise of exceptions and limitations to copyright. These provisions should also apply to e-books. In order to achieve legal certainty and

harmonisation within the internal market, Member States should ensure that the exception to the exclusive public lending right set out in article 6 of Directive 2006/115/EC is mandatory.

Or. en

Amendment 185

Marc Joulaud, Sabine Verheyen, Jean-Marie Cavada, Christian Ehler, Angelika Niebler

Proposal for a directive

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) Where user-generated content involves proportionate use of a quotation or of an extract of a protected work or other subject-matter for a legitimate purpose, such use should be protected by the exception provided in this Directive. This exception should only be applied in certain special cases which do not conflict with normal exploitation of the work or other subject-matter concerned and do not unreasonably prejudice the legitimate interests of the rightholder. For the purpose of assessing such prejudice, the degree of originality of the user-generated content concerned, the length/extent of the quotation or extract used or the degree of economic harm should be examined, where relevant, while not precluding the legitimate enjoyment of the exception. This exception should be without prejudice to the moral rights of the authors of the work or other subject-matter concerned.

Or. en

Amendment 186

Andrea Bocskor

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) Digital tools allow citizens to make and disseminate easily reproductions of works located permanently in public places, such as sculptures or monuments, for their private or non-commercial uses. Such practices are not detrimental to rightholders and are widely accepted across the Union, though not always recognised officially in national law. Therefore, it is necessary to provide citizens in the Union with clear legal certainty for such uses. As such, Member States should be required to provide an exception authorising at least the reproduction of works permanently located in public places and the communication to the public and distribution of such copies for non-commercial purposes.

Or. en

Justification

Since the word 'use' would cover any kinds of copyright related acts and the word dissemination is not generally used in copyright to be more precise such a wording would be preferable.

Amendment 187
Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive
Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC, are in place in a number of Member States in order to facilitate cultural heritage

institutions and educational establishments to give on site access to works and other subject-matter on the premises. Such arrangements exist as educational establishments and cultural heritage institutions are involved in preserving and giving access to their digital collections on the premises. Digital technologies provide new ways of giving access to those collections on the premises, such as secure WiFi networks and the use of technological protection measures. At the same time, the maturity of digital preservation requires cultural heritage institutions to preserve and give access not just to digitised analogue works and other subject-matter, but also to born-digital materials. Member States should therefore be required to provide for an exception to permit cultural heritage institutions, and educational establishments to give access to all digitised and born-digital collections, as long as such access is limited to access on the premises. Such an exception should allow copies to be delivered on any technology to members of the public while on the premises of the establishment.

Or. en

Amendment 188
Andrea Bocskor

Proposal for a directive
Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) Technological developments mean that publicly accessible libraries, educational establishments, museums or archives frequently operate with secure electronic networks, making dedicated on-the-premises terminals obsolete and no longer adapted to consumer behaviour. As

such, Member States should, on a voluntary basis, be entitled to provide that these institutions may communicate or make available, for the purposes of research or private study, to individual members of the public works and other subject-matter contained in their collections, through secure electronic networks in lieu of dedicated terminals. Directive 2001/29/EC should be amended accordingly.

Or. en

Justification

The extension “not subject to purchase or licensing terms” seem unnecessary and unjustifiably limiting.

Amendment 189
Isabella Adinolfi

Proposal for a directive
Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) Freedom of panorama should be guaranteed within the internal market. New technologies allow the easy reproduction of works made to be located permanently in public places, such as sculptures or monuments. Such practices, where carried out for non-commercial purposes, should not be considered detrimental to rightholders. Therefore, Member States should be required to provide for an exception or limitation authorising the use, both online and offline and for non-commercial purpose, of works to be located permanently in public places.

Or. en

Amendment 190

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 21 c (new)

Text proposed by the Commission

Amendment

(21 c) In its ruling in Case C-174/15, Vereniging Openbare Bibliotheken v Stichting Leenrecht^{32a}, the Court of Justice of the European Union recognised that the lending of e-books can fall under the same rules as the lending of physical books. When Member States apply the limitation to copyright in Article 6 of Directive 2006/115/EC of the European Parliament and of the Council^{32b}, libraries are able to buy any physical book on the market. Once purchased, they can lend it without restrictions linked to contract terms or other measures of protection which prevent the exercise of exceptions and limitations to copyright. That provision should also apply to e-books. Moreover, with the objective of ensuring that all citizens of the Union have access to a full selection of books and other resources, all Member States should ensure that the limitation to the exclusive public lending right in Article 6 of Directive 2006/115/EC is made mandatory.

^{32a} ***Judgement of the Court of Justice of 10 November 2016, Vereniging Openbare Bibliotheken v Stichting Leenrecht, ECLI:EU:C:2016:856.***

^{32b} ***Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28).***

Or. en

Amendment 191
Isabella Adinolfi

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the ***licensing of rights in*** out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Amendment

(22) Cultural heritage institutions, ***educational establishments or other non-commercial documentation centres*** should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the ***availability of*** out-of-commerce works that are in the collections of cultural heritage institutions, ***educational establishments or other non-commercial documentation centres*** and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Or. en

Amendment 192
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Cultural heritage institutions should

Amendment

(22) Cultural heritage institutions ***or***

benefit from a clear framework for the digitisation and dissemination, ***including across borders***, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the licensing of rights in out-of-commerce works that are in the collections of cultural heritage institutions ***and thereby to allow the conclusion of agreements with cross-border effect in the internal market.***

libraries should benefit from a clear framework for the digitisation and dissemination of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the licensing of rights in out-of-commerce works that are in the collections of cultural heritage institutions ***or libraries.***

Or. fr

Amendment 193

Helga Trüpel

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the ***licensing of rights in*** out-of-commerce

Amendment

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the ***online availability of*** out-of-commerce

works that are in the collections of cultural heritage institutions *and thereby to allow the conclusion of agreements with cross-border effect* in the internal market.

works that are in the collections of cultural heritage institutions in the internal market.

Or. en

Amendment 194
Zdzisław Krasnodebski

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the licensing of rights in out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Amendment

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult *or even impossible*. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the licensing of rights in out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Or. en

Amendment 195
Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the ***licensing of rights in*** out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Amendment

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use ***to begin with***. It is therefore necessary to provide for measures to facilitate the ***online availability of*** out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Or. en

Amendment 196

Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) Member States ***should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing for licences for out-of-commerce works to extend to the rights of rightholders that are not represented by the collective management organisation,*** in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of

Amendment

(23) ***This directive is without prejudice to specific solutions developed by Member States in order to deal with the issues raised by mass digitisation, such as systems for out-of-commerce works. Such solutions take into account the specific characteristic of the various types of work or other subject-matter and of the various users; they are devised on the basis of consensus between the stakeholders. This approach has already been adopted in the***

representation.

Memorandum of Understanding on Key Principles on the Digitisation and Making Available of Out-of-Commerce Works, signed on 20 September 2011 by representatives of European libraries, authors, publishers and collective management organisations under the aegis of the Commission. This directive is without prejudice to that Memorandum of Understanding, which calls on Member States and the Commission to ensure that voluntary agreements concluded between users, rightholders and collective management organisations to authorise the use of out-of-commerce works on the basis of the principles contained in the Memorandum have the benefit of legal certainty in the national and cross-border context. Member States should have a certain margin of discretion to choose the specific type of arrangement in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation.

Or. fr

Amendment 197
Isabella Adinolfi

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing *for licences for out-of-commerce works to extend to the rights of rightholders that are not represented by the collective management organisation*, in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended

Amendment

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of *legal* mechanism allowing *cultural heritage institutions, educational establishments or other non-commercial documentation centres to digitise, distribute, communicate to the public or make available the out-of-commerce works permanently in their collection*, in

collective licensing and presumptions of representation.

accordance to their legal traditions, practices or circumstances. Such mechanisms *should allow rightholders to exclude their works, on the basis of reasonable evidence, and* can include extended collective licensing and presumptions of representation. *In any case, Member States should be required to provide for a mandatory general exception, applying where collective management organisations do not exist, or are unable to achieve sufficient representativity, or to offer easily available licences to cultural heritage institutions, educational establishments or other non-commercial documentation centres for the types of works and other subject-matter held in their collections.*

Or. en

Amendment 198

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing *for licences for out-of-commerce works to extend to the rights of rightholders that are not represented by the collective management organisation*, in accordance to their legal traditions, practices or circumstances. *Such* mechanisms can include extended collective licensing and presumptions of representation.

Amendment

(23) Member States should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing *cultural heritage institutions to disseminate their out-of-commerce collections*, in accordance to their legal traditions, practices or circumstances. *However, it is essential that* such mechanisms *allow rightholders to exclude their works and* can include extended collective licensing and presumptions of representation, *and limitations and exceptions where no collective management organisations exist, collective management organisations are unable to achieve sufficient representativity or a collective*

management organisation is unable to offer adequate licences to cultural heritage institutions for the types of works and other subject-matter held in their collections.

Or. en

Amendment 199

Isabella Adinolfi

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms ***introduced by this Directive are*** available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

Amendment

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the ***potential*** licensing mechanisms ***are easily*** available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those ***potential*** licensing mechanisms. It is appropriate that Member States consult rightholders, users, ***cultural heritage institutions, educational establishments, other non-commercial documentation centres*** and collective management organisations when doing so.

Or. en

Amendment 200

Yana Toom, Catherine Stihler, Dita Charanzová, Jasenko Selimovic

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

Amendment

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, ***cultural heritage institutions***, users and collective management organisations when doing so.

Or. en

Amendment 201

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs, sound recordings

Amendment

(25) Considering the variety of works and other subject-matter in the collections of cultural heritage institutions ***and libraries***, it is important that the licensing mechanisms introduced by this Directive are available and can be used in practice for different types of works and other subject-matter, including photographs,

and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

sound recordings and audiovisual works. In order to reflect the specificities of different categories of works and other subject-matter as regards modes of publication and distribution and to facilitate the usability of those mechanisms, specific requirements and procedures may have to be established by Member States for the practical application of those licensing mechanisms. It is appropriate that Member States consult rightholders, users and collective management organisations when doing so.

Or. fr

Amendment 202

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 26

Text proposed by the Commission

Amendment

(26) For reasons of international comity, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country. Those mechanisms should also not apply to works or other subject-matter of third country nationals except when they are first published or, in the absence of publication, first broadcast in the territory of a Member State or, in the case of cinematographic or audiovisual works, to works of which the producer's headquarters or habitual residence is in a Member State.

deleted

Amendment 203
Isabella Adinolfi

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) For reasons of international comity, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country. *Those mechanisms should also not apply to works or other subject-matter of third country nationals except when they are first published or, in the absence of publication, first broadcast in the territory of a Member State or, in the case of cinematographic or audiovisual works, to works of which the producer's headquarters or habitual residence is in a Member State.*

Amendment

(26) For reasons of international comity, the licensing mechanisms for the digitisation and dissemination of out-of-commerce works provided for in this Directive should not apply to works or other subject-matter that are first published or, in the absence of publication, first broadcast in a third country or, in the case of cinematographic or audiovisual works, to works the producer of which has his headquarters or habitual residence in a third country.

Amendment 204
Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) *As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted*

Amendment

deleted

under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues in order to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the licence.

Or. en

Amendment 205
Zdzisław Krasnodębski

Proposal for a directive
Recital 27

Text proposed by the Commission

Amendment

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues in order to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the licence.

deleted

Or. en

Amendment 206
Isabella Adinolfi

Proposal for a directive
Recital 27

Text proposed by the Commission

Amendment

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from

generating reasonable revenues *in order* to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the licence.

generating reasonable revenues *that should be allocated only* to cover the costs of the licence and the costs of digitising and disseminating the works and other subject-matter covered by the licence.

Or. en

Amendment 207

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the application of licences to their works or other subject-matter should be adequately publicised. *This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information available to the public for a reasonable period of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to*

Amendment

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions *or libraries* on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the application of licences to their works or other subject-matter should be adequately publicised. *Member States are therefore asked, if necessary, to establish a portal to provide information on the subject.*

establish and manage the European portal making such information available.

³³ *Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).*

Or. fr

Amendment 208
Isabella Adinolfi

Proposal for a directive
Recital 28

Text proposed by the Commission

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions *on the basis of the licensing mechanisms* provided for in this Directive and the arrangements in place for all rightholders to exclude *the application of licences to* their works or other subject-matter should be adequately publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single *publicly accessible* online portal for the Union to make such information available to the public *for a reasonable period of time* before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and

Amendment

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions, *educational establishments and other non-commercial documentation centres* provided for in this Directive and the arrangements in place for all rightholders to exclude their works or other subject-matter should be adequately publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single *public, and* online portal for the Union to make such information *permanently, easily and effectively* available to the public, *in any case for at least six months* before the cross-border use takes place. Under Regulation (EU) No

of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

Or. en

Amendment 209

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions ***on the basis of the licensing mechanisms*** provided for in this Directive and the arrangements in place for all rightholders to exclude ***the application of licences to*** their works or other subject-

Amendment

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions provided for in this Directive and the arrangements in place for all rightholders to exclude their works or other subject-matter should be adequately publicised. This is particularly important

matter should be adequately publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information available to the public for a reasonable period of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information available to the public for a reasonable period of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

Or. en

Amendment 210
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Recital 29

Text proposed by the Commission

(29) On-demand services have the potential to play a decisive role in the dissemination of European works across the European Union. However, agreements on the online exploitation of such works may face difficulties related to the licensing of rights. Such issues may, for instance, appear when the holder of the rights for a given territory is not interested in the online exploitation of the work or where there are issues linked to the windows of exploitation.

Amendment

(29) On-demand services have the potential to play a decisive role in the dissemination of European works across ***all Member States of*** the European Union. However, agreements on the online exploitation of such works may face difficulties related to the licensing of rights. Such issues may, for instance, appear when the holder of the rights for a given territory is not interested in the online exploitation of the work or where there are issues linked to the windows of exploitation.

Or. fr

Amendment 211

Bogdan Brunon Wenta, Marc Joulaud, Sabine Verheyen

Proposal for a directive

Recital 30

Text proposed by the Commission

(30) To facilitate the licensing of rights in audiovisual works ***to*** video-on-demand platforms, this Directive requires Member States to set up a ***negotiation*** mechanism allowing parties willing to conclude an agreement to rely on the assistance of an impartial body. The body should meet with the parties and ***help with*** the negotiations by providing professional and external advice. Against that background, Member States should decide on the conditions of the functioning of the ***negotiation*** mechanism, including the timing and duration of the assistance to negotiations and the bearing of the costs. Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the ***negotiation*** forum.

Amendment

(30) To facilitate the licensing of rights in audiovisual works, ***relevant rights are consolidated with the producer by law or by contract. In order to promote cultural diversity and the availability of works on*** video-on-demand platforms, this Directive requires Member States to set up a ***facilitation*** mechanism allowing ***relevant parties willing to conclude an agreement for the licensing of audiovisual works to video-on-demand platforms*** to rely on the assistance of an impartial body. The body should meet with the ***relevant*** parties and ***facilitate*** the negotiations by providing professional and external advice. Against that background, Member States should decide on the conditions of the functioning of the ***facilitation*** mechanism, including the timing and duration of the assistance to negotiations and the bearing of the costs.

Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the *facilitation* forum.

Or. en

Amendment 212
Isabella Adinolfi

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) To facilitate the licensing of rights in audiovisual works to video-on-demand platforms, this Directive requires Member States to set up a negotiation mechanism allowing parties willing to conclude an agreement to rely on the assistance of an impartial body. The body should meet with the parties and help with the negotiations by providing professional *and external* advice. Against that background, Member States should decide on the conditions of the functioning of the negotiation mechanism, including the timing and duration of the assistance to negotiations *and* the bearing of the costs. Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the negotiation forum.

Amendment

(30) To facilitate the licensing of rights in audiovisual works to video-on-demand platforms, this Directive requires Member States to set up a negotiation mechanism allowing parties willing to conclude an agreement to rely on the assistance of an impartial *public* body. The body should meet with the parties and help with the negotiations by providing professional, *external, impartial and affordable* advice. Against that background, Member States should decide on the conditions of the functioning of the negotiation mechanism, including the timing and duration of the assistance to negotiations, the bearing of the costs *and the composition of such bodies*. Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the negotiation forum.

Or. en

Amendment 213
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) To facilitate the licensing of rights in audiovisual works to video-on-demand platforms, this Directive ***requires*** Member States ***to*** set up a negotiation mechanism allowing parties willing to conclude an agreement to rely on the assistance of an impartial body. The body should meet with the parties and help with the negotiations by providing professional and external advice. Against that background, Member States should decide on the conditions of the functioning of the negotiation mechanism, including the timing and duration of the assistance to negotiations and the bearing of the costs. Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the negotiation forum.

Amendment

(30) To facilitate the licensing of rights in audiovisual works to video-on-demand platforms, this Directive ***recommends that*** Member States set up a negotiation mechanism allowing parties willing to conclude an agreement to rely on the assistance of an impartial body. The body should meet with the parties and help with the negotiations by providing professional and external advice. Against that background, Member States should decide on the conditions of the functioning of the negotiation mechanism, including the timing and duration of the assistance to negotiations and the bearing of the costs. Member States should ensure that administrative and financial burdens remain proportionate to guarantee the efficiency of the negotiation forum.

Or. fr

Amendment 214
Petra Kammerevert

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often

Amendment

deleted

complex and inefficient.

Or. de

Amendment 215

Isabella Adinolfi

Proposal for a directive

Recital 31

Text proposed by the Commission

Amendment

(31) A free and pluralist press is *deleted*
essential to ensure quality journalism and
citizens' access to information. It provides
a fundamental contribution to public
debate and the proper functioning of a
democratic society. In the transition from
print to digital, publishers of press
publications are facing problems in
licensing the online use of their
publications and recouping their
investments. In the absence of recognition
of publishers of press publications as
rightholders, licensing and enforcement
in the digital environment is often
complex and inefficient.

Or. en

Amendment 216

Andrea Bocskor

Proposal for a directive

Recital 31

Text proposed by the Commission

Amendment

(31) A free and pluralist press is *deleted*
essential to ensure quality journalism and
citizens' access to information. It provides
a fundamental contribution to public
debate and the proper functioning of a
democratic society. In the transition from

print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Or. en

Justification

The planned new right would make a distinction between different types of journalistic publications and it would not be based on whether such publications are protected by copyright but on certain other criteria (e.g. one criterion is that they should not be scientific journals according to Recital 33). Therefore it seems to be a parallel protection next to copyright on certain publications.

Amendment 217 **Martina Michels**

Proposal for a directive **Recital 31**

Text proposed by the Commission

(31) A free and pluralist press *is* essential to ensure quality journalism and citizens' access to information. *It provides* a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. *In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.*

Amendment

(31) A free and pluralist press, *a legal framework for research and source protection, as well as decent payment for quality journalism are* essential to ensure quality journalism and citizens' access to information. *They provide* a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments *just like other analogue media did in the 20th century as they prepared to grow for mass consumption. Those media have since established themselves in day-to-day life.*

Amendment 218**Sabine Verheyen, Christian Ehler, Angelika Niebler, Herbert Reul****Proposal for a directive****Recital 31***Text proposed by the Commission*

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. ***News aggregators and search engines have increasingly developed their activities by making profit from the content of press publishers. These profits are not shared fairly with the creators and publishers.*** In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Amendment 219**Dominique Bilde, Marie-Christine Boutonnet****Proposal for a directive****Recital 31***Text proposed by the Commission*

(31) A free and pluralist press is essential to ensure quality journalism and ***citizens'*** access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and access to information ***for citizens of the Member States.*** It provides a fundamental contribution to public debate and the

society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Or. fr

Amendment 220
Petra Kammerevert

Proposal for a directive
Recital 32

Text proposed by the Commission

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

deleted

Or. de

Amendment 221
Isabella Adinolfi

Proposal for a directive
Recital 32

Text proposed by the Commission

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

deleted

Or. en

**Amendment 222
Andrea Bocskor**

**Proposal for a directive
Recital 32**

Text proposed by the Commission

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

deleted

Or. en

Justification

The planned new right would make a distinction between different types of journalistic publications and it would not be based on whether such publications are protected by copyright but on certain other criteria (e.g. one criterion is that they should not be scientific journals according to Recital 33). Therefore it seems to be a parallel protection next to copyright on certain publications.

Amendment 223

Martina Michels

Proposal for a directive

Recital 32

Text proposed by the Commission

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It *is* therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. ***Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.***

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It *isn't* therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. ***Search engines or editorialised news blogs, online excerpts, online press reviews, or comparable professional online disseminations, which contain only short references to daily newspaper articles, have been proven to be more of a guarantor of media pluralism and have an increasing attention for the offers of the voluntarily listed press publishers. The resulting market power of the new players, which have radically altered the media landscape, should lead to appropriate taxation in the Member States. There is a strong imperative for every democratic society to decide to use tax revenues to improve the working conditions of journalists and the innovative development of modern publishing houses. The European Commission should encourage this dialogue in an intensive manner. The experience with the failed protection of***

press *publishers in Germany and Spain, as well as the stimulating consultation process, which has solved many modern conflicts in the context of the revision of this Directive, should be used for future solutions. The establishment of a permanent consultation mechanism dealing with questions of the harmonisation of copyright law is urgently required.*

Or. en

Amendment 224

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 32

Text proposed by the Commission

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. *It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.*

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry.

Or. en

Amendment 225

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 32

Text proposed by the Commission

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore ***necessary to provide at Union level a harmonised*** legal protection for press publications in respect of digital uses. ***Such*** protection should be ***effectively*** guaranteed through the introduction, ***in Union law***, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore ***recommended that Member States take measures to ensure optimal*** legal protection for press publications in respect of digital uses. ***Accordingly it is suggested that such*** protection should be guaranteed through the introduction, ***where necessary, into national legal systems*** of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

Or. fr

Amendment 226
Petra Kammerevert

Proposal for a directive
Recital 33

Text proposed by the Commission

(33) ***For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of***

Amendment

deleted

hyperlinking which do not constitute communication to the public.

Or. de

Amendment 227

Isabella Adinolfi

Proposal for a directive

Recital 33

Text proposed by the Commission

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public. *deleted*

Or. en

Amendment 228

Martina Michels

Proposal for a directive

Recital 33

Text proposed by the Commission

Amendment

(33) For the purposes of this Directive, *deleted*

it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Or. en

Amendment 229

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 33

Text proposed by the Commission

Amendment

(33) *For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of* **deleted**

hyperlinking which do not constitute communication to the public.

Or. en

Amendment 230

Giorgos Grammatikakis, Luigi Morgano, Julie Ward, Silvia Costa, Elena Gentile

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. *Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive.* This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Or. en

Amendment 231

Andrea Bocskor

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press

publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking **which** do not constitute communication to the public.

publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining **and whose credibility for the public relies to a certain extent on their specific brand name**. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking, **where such acts** do not constitute communication to the public **under Directive 2001/29/EC**.

Or. en

Justification

The terms “professional” and the explanation concerning hyperlinking are not clear, which could cause legal uncertainty. The term “the text fixating the hyperlink” is not sufficiently clear, especially in light of the next recital.

Amendment 232

Sabine Verheyen, Angelika Niebler, Christian Ehler, Herbert Reul

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest

and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should **not** be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Or. en

Amendment 233

Giorgos Grammatikakis, Luigi Morgano, Julie Ward, Silvia Costa, Elena Gentile

Proposal for a directive

Recital 33 a (new)

Text proposed by the Commission

Amendment

(33 a) The right for press publishers should apply without prejudice to existing provisions relating to authors' rights, neighbouring rights and to the Directives in force in the field of copyright. In particular it is without prejudice to the rights of reproduction or communication or making available to the public of links or extracts of a press publication by an individual user for private use and for not for profit, non commercial purposes.

Or. en

Amendment 234

Petra Kammerevert

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as

deleted

the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. de

Amendment 235

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

deleted

Or. en

Amendment 236

Martina Michels

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) *The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.*

deleted

Or. en

Amendment 237

Isabella Adinolfi

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) *The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.*

deleted

Or. en

Amendment 238

Sabine Verheyen, Christian Ehler, Angelika Niebler, Herbert Reul

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive. ***The protection granted to press publications under this Directive should also apply where the content is automatically generated by, for example, news aggregators.***

Or. en

Justification

This amendment is to ensure that snippets are covered by the publishers right.

Amendment 239

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to

Amendment

(34) The rights ***which may possibly be*** granted to the publishers of press publications ***by Member States that so decide*** under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC,

the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. fr

Amendment 240

Giorgos Grammatikakis, Julie Ward

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. en

Amendment 241

Petra Kammerevert

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) ***The protection granted to***

Amendment

deleted

publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

Or. de

Amendment 242
Martina Michels

Proposal for a directive
Recital 35

Text proposed by the Commission

Amendment

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the

deleted

one side, and authors and other rightholders, on the other side.

Or. en

Amendment 243

Isabella Adinolfi

Proposal for a directive

Recital 35

Text proposed by the Commission

Amendment

(35) *The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.* *deleted*

Or. en

Amendment 244

Giorgos Grammatikakis, Sylvie Guillaume, Mary Honeyball, Luigi Morgano, Silvia Costa, Silvia Costa, Theresa Griffin, Elena Gentile, Monika Smolková

Proposal for a directive

Recital 35

Text proposed by the Commission

Amendment

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.
Member States should ensure that a fair share of remuneration derived from uses of the press publishers rights is attributed to journalists.

Or. en

Amendment 245

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other

Amendment

(35) The protection granted to publishers of press publications ***by Member States which so wish*** under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to

rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

Or. fr

Amendment 246
Martina Michels

Proposal for a directive
Recital 36

Text proposed by the Commission

Amendment

(36) Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should be allowed to determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed

deleted

what is required under the system in place.

Or. en

Amendment 247
Isabella Adinolfi

Proposal for a directive
Recital 36

Text proposed by the Commission

Amendment

(36) Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should be allowed to determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.

deleted

Or. en

Amendment 248
Helga Trüpel

Proposal for a directive
Recital 36

Text proposed by the Commission

(36) Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should ***be allowed to*** determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the ***harm*** caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.

Amendment

(36) Publishers, including those of press publications, books or scientific publications ***or musical works***, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should determine that, when an author has transferred or licensed his rights to a publisher or ***in the common interest of the author and publisher to a collective management organisation or the publisher*** otherwise contributes with his works to a publication and there are systems in place to compensate for the ***potential loss*** caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.

Or. en

Amendment 249

Isabella Adinolfi

**Proposal for a directive
Recital 37**

Text proposed by the Commission

Amendment

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

deleted

Or. en

Amendment 250

Martina Michels, Kostadinka Kuneva

**Proposal for a directive
Recital 37**

Text proposed by the Commission

Amendment

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it. **Therefore there should be an intensive dialogue on**

the appropriate determination of copyright-protected content in uploads that could include the possibility of a flat-rate payment, which must be proportionate to the modern use of music and media platforms. The much abused technical solution, known as upload filters, cannot be considered sufficiently effective and robust to merit measures with legal consequences. They do not solve the underlying problem of fair payment for authors, musicians or other rightholders and should be omitted from the provisions in this Directive because they produce new problems in the field of privacy and data protection.

Or. en

Amendment 251

Giorgos Grammatikakis, Mary Honeyball, Mary Honeyball, Luigi Morgano, Julie Ward, Silvia Costa, Theresa Griffin, Elena Gentile

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Amendment

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement ***or agreement*** of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for ***it***. ***These user uploaded content services claim to be covered by the safe harbour exemption of Directive 2000/31/EC and either refuse to enter into licensing agreements or underpay creators, whilst***

at the same time they directly compete with fully licensed content providers for the same users and revenues. These services therefore conflict with the normal exploitation of copyright protected works and subject matter and drive down the overall value of creative content online.

Or. en

Amendment 252

Sabine Verheyen, Jeroen Lenaers, Sabine Verheyen, Jeroen Lenaers, Marc Joulaud, Sabine Verheyen, Marc Joulaud

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Amendment

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. ***Thereby, the online services often make profits from content that they do not create, which are not always shared fairly with the concerned creators.*** This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Or. en

Amendment 253

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Over the *last* years, *the functioning of the online content marketplace has gained in complexity*. Online services providing access to *copyright protected* content uploaded by their users without the involvement of *right holders* have flourished and have become *main* sources of access to content online. *This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.*

Amendment

(37) Over the years, online services providing access to content uploaded by their users without the involvement of *rightholders* have flourished and have become *important* sources of access to content online, *allowing for diversity and ease of access to content but also generating challenges when copyright protected content is uploaded without prior authorisation from rightholders.*

Or. en

Amendment 254
Momchil Nekov

Proposal for a directive
Recital 37

Text proposed by the Commission

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Amendment

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online *thus increasing the value gap*. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

Or. en

Amendment 255
Isabella Adinolfi

Proposal for a directive
Recital 38

Text proposed by the Commission

Amendment

(38) *Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.* ***deleted***

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

³⁴ ***Directive 2000/31/EC of the European Parliament and of the Council of 8 June***

2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 256
Martina Michels

Proposal for a directive
Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

deleted

³⁴ *Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).*

Or. en

Amendment 257
Isabella Adinolfi

Proposal for a directive
Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

deleted

³⁴ ***Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).***

Or. en

Amendment 258
Andrea Bocskor

Proposal for a directive
Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

Where information society service providers ***store and provide access to*** the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they ***are*** obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of

Where information society service providers ***provide a platform, referred to as a digital content platform, whose main purpose is to give*** the public ***direct access to user-generated content***, to copyright protected works or other subject-matter uploaded ***or displayed*** by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they ***should be*** obliged to conclude licensing

Directive 2000/31/EC of the European Parliament and of the Council³⁴ .

agreements with rightholders, unless ***rightholders do not deem it necessary or*** they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴ . ***The obligation to conclude licencing agreements should not extend to search engines, as defined by Directive 2016/1148/EU, and should only encompass rightholders whose category of works is significantly present on the concerned platform. In respect of Article 14 of Directive 2000/31/EC and eligibility for the liability exemption provided therein, it is necessary to verify the extent of the role played by the platform provider. Where the provider plays a sufficiently active role, including through the optimisation of the presentation of the uploaded or displayed works or subject-matter or through their promotion, irrespective of the nature of the means used therefor , the provider should no longer be considered to be merely hosting such user-generated content, works or other subject-matter. In order to ensure the functioning of any licensing agreement, platform providers whose main purpose is to provide the public with access to significant amounts of copyright protected works or other subject-matter uploaded or displayed by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when those providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.***

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Justification

In some cases rightholders may not require the conclusion of a licensing agreement, however the general obligation to include one should remain the basis of any uses. The obligation set out here would be a self standing obligation to platform providers who provide access to large/significant amounts of copyright protected works, regardless of a possible contractual relation between them and the rightholders.

Amendment 259

Sabine Verheyen, Christian Ehler, Angelika Niebler, Herbert Reul

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers ***store and provide access*** to the public ***to*** copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment

Where information society service providers ***are making available*** to the public copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public ***and an act of reproduction***, they are obliged to conclude licensing agreements with rightholders ***in order to protect rightholders legitimate interests***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. ***The authorisation granted to these services should cover content uploaded by one or more users, if the users are not acting on a commercial and or professional basis.***

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment 260
Santiago Fisas Aixelà

Proposal for a directive
Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to **copyright protected** works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and **performing an** act of communication to the public, **they are** obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment

Where information society service providers store and provide access to the public to **copyright-protected** works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and **participating in the** act of communication to the public **initiated by their users, those service providers are therefore** obliged to conclude licensing agreements with rightholders, **in relation to the rights of communication to the public and of reproduction in which they play a vital role**, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment 261
Robert Rochefort

Proposal for a directive
Recital 38 – paragraph 1

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of ***physical facilities and*** performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of ***installations and thus*** performing an act of communication to the public ***and/or making available to the public, as well as an act of reproduction,*** they are obliged to conclude licensing agreements with rightholders ***who so request,*** unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. ***In the interests of ensuring legal certainty for users of services, these agreements should cover the liability of the latter when they are not acting professionally for acts falling under Articles 2 and 3 of Directive 2001/29/EC that they perform.***

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. fr

Justification

Cooperation between rightholders and platforms must be stepped up and defined more clearly so that it can be implemented effectively and in a balanced manner. The Commission proposal does not go far enough to ensure that copyright applies fully when users make material available on platforms which place a significant amount of content on line without the permission of the rightholders.

Amendment 262

Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of ***physical facilities and*** performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. **1–16**).

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of ***installations and thus*** performing an act of communication to the public ***and/or making available to the public, as well as an act of reproduction***, they are obliged to conclude licensing agreements with rightholders ***who so request***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. ***In the interests of ensuring legal certainty for users of services, these agreements should cover the liability of the latter when they are not acting professionally for acts falling under Articles 2 and 3 of Directive 2001/29/EC that they perform.***

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. **1**).

Or. fr

Amendment 263

Silvia Costa, Luigi Morgano

Proposal for a directive Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store ***and*** provide access to the

Amendment

Where information society service providers store ***and/or*** provide access to

public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are ***obliged to conclude licensing agreements with rightholders, unless they are*** eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

the public - ***including by optimising the presentation of the content*** - to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere ***technical, automatic and passive*** provision of physical facilities and performing an act of communication to the public, they are ***not*** eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴ ***and are therefore obliged to conclude licensing agreements with rightholders.***

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. it

Justification

Amendment intended to clarify the legal framework within which the limits on exemption from liability provided for by Directive 2000/31/EC apply.

Amendment 264

Giorgos Grammatikakis, Mary Honeyball, Mary Honeyball, Theresa Griffin, Monika Smolková

Proposal for a directive Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store ***and*** provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, ***they*** are obliged to conclude

Amendment

Information society service providers ***that*** store ***and/or*** provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public ***and reproduction***, are obliged to conclude

licensing agreements with rightholders, ***unless they are*** eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

licensing agreements with rightholders. ***Information society service providers that play an active role are not*** eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 265

Zdzisław Krasnodębski

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders ***who express their will to conclude such agreements***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal

Market (OJ L 178, 17.7.2000, p. 1–16).

Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 266

Helga Trüpel

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***thereby going*** beyond the mere provision of physical facilities and ***performing*** an act of communication to the public, ***they*** are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***they go*** beyond the mere provision of physical facilities and ***perform*** an act of communication to the public ***as well as a reproduction act and therefore*** are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 267

Yana Toom, Catherine Stihler, Dita Charanzová, Jasenko Selimovic

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***they should conclude fair and balanced licensing agreements with rightholders in order to ensure fair and appropriate remuneration***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 268

Dietmar Köster

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***thereby going*** beyond the mere provision of physical facilities and ***performing*** an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

Amendment

Where information society service providers ***that*** store and provide access to the public to copyright protected works or other subject-matter uploaded by their users ***go*** beyond the mere provision of physical facilities and ***perform*** an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 269
Isabella Adinolfi

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

deleted

Or. en

Amendment 270
Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

deleted

Amendment 271

Giorgos Grammatikakis, Mary Honeyball, Julie Ward, Theresa Griffin, Monika Smolková

Proposal for a directive

Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor. ***An information society service provider should be obliged to acquire licences for copyright protected content regardless of whether the provider has editorial responsibility for that content. The licences acquired by service providers from right holders should be deemed to cover all the acts of their users, provided that they are acting for non-commercial purposes. This will provide legal certainty for individual users of such services whilst clarifying the liability of platforms.***

Amendment 272

Dietmar Köster

Proposal for a directive

Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them,

Amendment

In respect of Article 14 ***of Directive 2000/31/EC and the liability exemption provided therein***, it is necessary to verify whether the service provider plays an active role, including by optimising the

irrespective of the nature of the means used therefor.

presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor. ***In such cases, the provider should no longer be considered to be merely hosting copyright protected works or other subject-matter uploaded by its users, should be ineligible for the liability exemption and therefore subjected to the provisions of Directive 2001/29/EC the same way as any digital service provider.***

Or. en

Amendment 273
Helga Trüpel

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter ***or promoting*** them, irrespective of the nature of the means used therefor.

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter, ***promoting or economically exploiting*** them, irrespective of the nature of the means used therefor, ***including automated processes. The service provider cannot invoke not playing an active role for single works or other subject-matter where the service provider plays an active role with regards to the general functioning of the service. Service providers that play an active role are ineligible for the liability exemption of Article 14.***

Or. en

Amendment 274
Robert Rochefort

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the ***uploaded works or subject-matter*** or promoting ***them***, irrespective of the nature of the means used therefor.

Amendment

In respect of ***this*** Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the ***content provided by the service*** or promoting ***that content***, irrespective of the nature of the means used therefor.

Or. fr

Justification

Cooperation between rightholders and platforms must be stepped up and defined more clearly so that it can be implemented effectively and in a balanced manner. The Commission proposal does not go far enough to ensure that copyright applies fully when users make material available on platforms which place a significant amount of content on line without the permission of the rightholders.

Amendment 275
Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the ***uploaded works or subject-matter*** or promoting ***them***, irrespective of the nature of the means used therefor.

Amendment

In respect of ***this*** Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the ***content provided by the service*** or promoting ***that content***, irrespective of the nature of the means used therefor.

Or. fr

Amendment 276
Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC. **deleted**

Or. en

Amendment 277

Isabella Adinolfi

Proposal for a directive Recital 38 – paragraph 3

Text proposed by the Commission

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC. **deleted**

Amendment 278
Robert Rochefort

Proposal for a directive
Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to **large amounts of** copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when ***no request for a licensing agreement is addressed to*** the information society service providers ***who play an active role or when the information society service providers which*** are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC ***store and offer to the public a significant quantity of works or other subject-matter uploaded by their users.***

Or. fr

Justification

Cooperation between rightholders and platforms must be stepped up and defined more clearly so that it can be implemented effectively and in a balanced manner. The Commission proposal does not go far enough to ensure that copyright applies fully when users make material available on platforms which place a significant amount of content on line without the permission of the rightholders.

Amendment 279
Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to **large amounts of** copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when ***no request for a licensing agreement is addressed to*** the information society service providers ***who play an active role or when the information society service providers which*** are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC ***store and offer to the public a significant quantity of works or other subject-matter uploaded by their users.***

Or. fr

Amendment 280 Dietmar Köster

Proposal for a directive Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to ***the public to large*** amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. ***This obligation*** should ***also apply when the information***

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to ***significant*** amounts of copyright protected works or other subject-matter uploaded by their users ***and performing an act of communication to the public*** should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. ***Those measures***

society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

should not require the identity of individual users uploading content in order to protect their privacy. Furthermore, those measures should be limited to preventing the availability of specifically identified and duly notified works and should not lead to a general obligation to monitor content uploaded by the users.

Or. en

Amendment 281

Emma McClarkin, Zdzisław Krasnodębski, John Procter, Angel Dzhambazki

Proposal for a directive Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should *take* appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should *agree with rightholders* appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies *in order to facilitate effective, transparent reporting in these agreements*. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Or. en

Amendment 282

Giorgos Grammatikakis, Julie Ward

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement, **or to prevent the availability of works or other-subject matter identified by rightholders on their services**, information society service providers storing and providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Or. en

Amendment 283

Sabine Verheyen, Christian Ehler, Angelika Niebler, Herbert Reul

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers **storing and providing access** to the public **to large amounts of** copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers **making available** to the public copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment 284

Emma McClarkin, Zdzisław Krasnodebski, John Procter

Proposal for a directive

Recital 38 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

Large amounts of copyright-protected works or other subject matter should be understood to signify large amounts of works or subject matter within the same category or categories. The notion of category should be interpreted broadly to include such categories as music, broadcasts, films, or computer games. Consequently, the obligations in Article 13 should only apply to information society service providers in relation to the categories of works and other subject matter that the service stores and provides access to in large amounts and not to other categories.

Or. en

Justification

This amendment offers further clarification on what "large amounts" might mean, whilst underlining that the obligation under Article 13 would only apply when a service provides a large amount of the same category of works.

Amendment 285

Helga Trüpel

Proposal for a directive

Recital 38 a (new)

Text proposed by the Commission

Amendment

(38 a) As Directive 2001/29/EC aims to provide a high level of protection of intellectual property, the clarification of

the liability of information society service providers that store and provide access to the public to copyright protected works or other subject-matter uploaded by their users while playing an active role is crucial to intellectual creation and substantial investment in creativity and innovation. In order to create further legal certainty for users and considering that they upload and display content in various forms, licensing agreements between information society service providers and rightholders should be concluded in such a way that acts by users are comprehensively legitimised with regard to the categories of rights covered by the respective rightholders.

Or. en

Amendment 286

Yana Toom, Catherine Stihler, Dita Charanzová

Proposal for a directive

Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their

deleted

success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. en

Amendment 287
Martina Michels

Proposal for a directive
Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

deleted

Or. en

Amendment 288
Isabella Adinolfi

Proposal for a directive
Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

deleted

Or. en

Amendment 289
Giorgos Grammatikakis, Sylvie Guillaume, Sylvie Guillaume, Julie Ward, Theresa Griffin, Monika Smolková

Proposal for a directive
Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and

(39) Collaboration between information society service providers storing and

providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement. ***Those technologies should not require the identity of individual users uploading content and should not process data relating to individual users, in accordance with Directive 95/46/EC, Directive 2002/58/EC and the General Data Protection Regulation 2016/679. On the contrary it should be limited to preventing the availability of specifically identified and duly notified works based on the information provided by right holders and therefore does not lead to a general monitoring obligation.***

Or. en

Amendment 290
Dietmar Köster

Proposal for a directive
Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content **and the** services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

(39) Collaboration between information society service providers, storing and providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users **and performing an act of communication to the public**, and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content, **such as reference files and metadata. They should deliver reference files in a timely fashion and in an appropriate file format. Metadata should be complete and accurate for each reference file.** The services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. en

Amendment 291

Emma McClarkin, John Procter

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) **Collaboration** between information society service providers storing and providing access to the public to large amounts of copyright protected works or

Amendment

(39) **In specific reference to musical works and other musical subject matter**, collaboration between information society service providers storing and providing

other subject-matter uploaded by their users and rightholders is essential *for the* functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of *rightholders'* content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential *to ensure the effective* functioning of *appropriate* technologies, such as content recognition technologies, *in order to address the significant value gap affecting the music industry*. In such cases, rightholders *of musical works and other musical subject matter* should provide the necessary data to allow the services to identify their content and the services should be transparent towards *those* rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide *those* rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of *the* content *of those rightholders*. Those technologies should also allow *those* rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. en

Justification

This amendment aims to narrow the scope of Article 13 with regard to content recognition, in order to address the significant value gap evidenced in the music industry. The original proposal, through its breadth, risks inhibiting the digital economy and internet freedoms by suggesting something akin to a general obligation to monitor. This narrow approach addresses a sector-specific issue where there is evidence of need and where existing software is proven to be sufficiently effective.

Amendment 292
Robert Rochefort

Proposal for a directive
Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

(39) Collaboration between information society service providers storing and providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. fr

Justification

Cooperation between rightholders and platforms must be stepped up and defined more clearly so that it can be implemented effectively and in a balanced manner. The Commission proposal does not go far enough to ensure that copyright applies fully when users make material available on platforms which place a significant amount of content on line without the permission of the rightholders.

Amendment 293

Sabine Verheyen, Christian Ehler, Angelika Niebler, Herbert Reul

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers **storing and providing access** to the public **to large**

Amendment

(39) Collaboration between information society service providers **making available** to the public copyright protected works or

amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. en

Amendment 294

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers storing and providing access to the public to **large amounts of** copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should

appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. fr

Amendment 295

Emma McClarkin, John Procter

Proposal for a directive

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39 a) Since the measures and technologies implemented by information society service providers necessary to apply this Directive could have a negative effect on legitimate content that is uploaded or displayed by users, in particular where the content concerned is covered by an exception, information society service providers should be required to offer a complaints mechanism for the benefit of users whose content has been affected by these measures. Information society service providers and right holders should process any complaints as soon as possible and take corrective action where measures prove to be unjustified. Such complaint and redress mechanisms should prescribe minimum standards for complaints to ensure that rightholders are given sufficient information to assess and respond to complaints.

Or. en

Amendment 296

Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) In view of the requirements imposed by this directive regarding agreements and cooperation between information society service providers and rightholders, it is necessary to provide for an intermediate procedure which will permit the parties to seek an amicable solution to any dispute concerning the relevant provisions of this directive. Member States must support such a mechanism by designating an impartial body with relevant experience and competence to assist the parties in the resolution of their dispute.

Or. fr

Amendment 297

Robert Rochefort

Proposal for a directive

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) In view of the requirements imposed by this directive regarding agreements and cooperation between information society service providers and rightholders, it is necessary to provide for an intermediate procedure which will permit the parties to seek an amicable solution to any dispute concerning the relevant provisions of this directive. Member States must support such a mechanism by designating an impartial

body with relevant experience and competence to assist the parties in the resolution of their dispute.

Or. fr

Justification

Cooperation between rightholders and platforms must be stepped up and defined more clearly so that it can be implemented effectively and in a balanced manner. The Commission proposal does not go far enough to ensure that copyright applies fully when users make material available on platforms which place a significant amount of content on line without the permission of the rightholders.

Amendment 298

Mary Honeyball, Julie Ward

Proposal for a directive

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39 a) In order to promote best practices with regard to the protection of rightholders and copyright protected works on digital content platforms, Member States should encourage industry agreements between digital content platforms and rightholders, and if necessary the Commission may bring forward proposals for a Code of Conduct at a later date.

Or. en

Amendment 299

Robert Rochefort

Proposal for a directive

Recital 39 b (new)

Text proposed by the Commission

Amendment

(39b) It should be recalled that, both in general and in the light of the references

to Article 3 of Directive 2001/29/EC made in this directive, a work and/or other subject-matter is communicated to the public and/or made available to the public when a natural or legal person affords access to it to persons outside their normal family circle or most immediate associates. For this purpose it makes no difference that the latter can gain access to the works and/or other subject-matter at the same place or in different places and at the same time or at different times.

Or. fr

Justification

The case-law of the Court of Justice of the European Union is not clear about the definition of 'public', and applies too many criteria which do not make it possible to ensure the legal certainty necessary to the proper functioning of the digital single market. The concept of the 'public' must be clarified and simplified with reference to EU case-law, returning to the definition used in relevant international law.

Amendment 300

Sylvie Guillaume, Pervenche Berès, Virginie Rozière

Proposal for a directive

Recital 39 b (new)

Text proposed by the Commission

Amendment

(39b) It should be recalled that, both in general and in the light of the references to Article 3 of Directive 2001/29/EC made in this directive, a work and/or other subject-matter is communicated to the public and/or made available to the public when a natural or legal person affords access to it to persons outside their normal family circle or most immediate associates. For this purpose it makes no difference that the latter can gain access to the works and/or other subject-matter at the same place or in different places and at the same time or at different times.

